

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TYLER TECHNOLOGIES, INC.,

Plaintiff,

VS.

VBCONVERSIONS LLC,

Defendant.

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CIVIL ACTION NO. 4:14-cv-00150

AFFIDAVIT IN SUPPORT OF MOTION TO DISMISS

STATE OF MISSOURI
COUNTY OF JACKSON

Before me, the undersigned authority, personally appeared David A. Crook, who is, being by me duly sworn, deposed and said under oath, as follows:

1. "My name is David A. Crook. I am over 18 years of age, and competent to make this affidavit.
2. All of my statements herein are based either upon my personal knowledge or upon a review of records in possession of VBConversions LLC ("VBC") pertaining to the statements made by me.
3. I am the Managing Member of VBC, as such, I have the authority to make this Declaration on behalf of VBC.
4. VBC is the owner of all rights in, and publisher of, the computer program *VB.Net to C# Converter* (the "Copyrighted Software") which is used by computer programmers to assist in translating software developed in the language Visual Basic into the programming language C# (pronounced "C-Sharp").

5. Attached hereto as Exhibit "A" is a true and correct copy of the registration certificate for the Copyrighted Software. Attached hereto as Exhibit "B" is a true and correct copy of the registration of the transfer of all rights in the Copyrighted Software to VBC.
6. The Copyrighted Software is distributed under the "trialware" model, whereby an interested user is permitted to download a time-and-feature-limited version of the Copyrighted Software in order to test it to see if it is suitable for his or her needs.
7. On first running the program, the user is presented with the End User License Agreement (EULA) governing the use and copying of the Copyrighted Software. Attached hereto as Exhibit "C" is a true and correct copy of the EULA used in connection with the version of the Copyrighted Software at issue in this action. The text of the EULA is automatically presented on screen to the user. The user need not perform any additional steps to access the text of the EULA. If the user purchases a license as required by the EULA for access to a full-featured version of the program, VBC provides an "unlock" code, or "key" to enable the full functioning of the Copyrighted Software.
8. Over the years, a broad array of so-called "cracking sites" have appeared on the internet that are capable of generating unauthorized unlock codes for the Copyrighted Software (and many other shareware programs offered in the trialware model) without the site or the user paying the required license fee.
9. In order to combat this problem, VBC collects certain information from a user's computer each time a copy of the Copyrighted Software is used.
10. According to information collected by VBC's servers, which I have reviewed, On or about October 17, 2011 at approximately 9:30a.m. CST, a user employed by Tyler, (believed to be named "Sayed Muhhamad Fahad") installed and launched the capability-

limited copy of the Copyrighted Software on a computer operating on Tyler's network. That computer then reported to VBC's servers that the user was presented with and accepted the EULA.

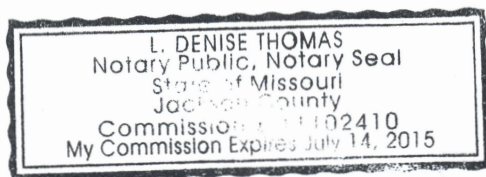
11. After accepting the EULA the user—Tyler's apparent employee—proceeded to register the program as though a valid license had been purchased from VBC, but used an unauthorized key. When asked to enter the key he had purchased from VBC, he instead entered "P0S65-80U92-DJ239-2500H-5Q828".
12. While this is a technically-valid key which will serve to unlock the Copyrighted Software, according to VBC's records, it belongs to a user in Quebec, Canada who purchased it in 2007. This key has been encountered by VBC in numerous infringements.
13. Over the next few days, the user made unauthorized use of the Copyrighted Software (and, in the process, unauthorized in-memory copies of it) at least 132 times to convert at least 2,593,824 lines of Visual Basic code to generate at least 3,246,143 lines of C# code.

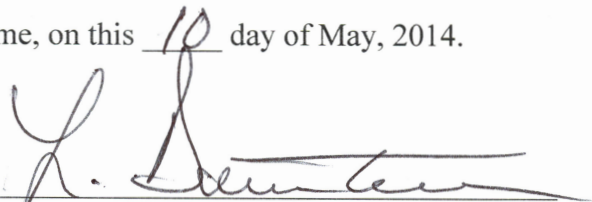
The information contained herein is within the personal knowledge of affiant and true and correct.

Further Affiant sayeth not."


David A. Crook

SUBSCRIBED and SWORN to before me, on this 10 day of May, 2014.




NOTARY PUBLIC
IN AND FOR STATE OF MISSOURI

